

1 BILL NO. G-90-07-37 (AS AMENDED)

2 GENERAL ORDINANCE NO. G- 24-90

3 AN ORDINANCE amending Article
4 III, Chapter 27 of the City of
5 Fort Wayne Code of Laws.

6 SECTION 1. That Article III, Chapter 27 of the
7 City of Fort Wayne Code of Laws be amended as follows:

8 Sec. 27-22. Definitions.

9 Unless the context specifically indicates otherwise,
10 the meaning of terms used in this ordinance shall be as
11 follows:

- 12 a) BATHER shall mean any person using the facility and
13 adjoining area for the purpose of therapy, relaxation,
14 recreation, or related activities.
- 15 b) HEALTH OFFICER shall mean the duly appointed,
16 qualified, and acting Health Commissioner of Fort
17 Wayne/Allen County, Indiana, or her authorized
18 representative.
- 19 c) PERSON shall mean any individual, partnership, firm,
20 company, corporation, association, municipality, other
21 division of government, or his or its legal
22 representative or agent.
- 23 d) SWIMMING POOL shall mean any structure, basin, chamber,
24 or tank containing a body of water for swimming,
25 diving, therapeutic, or recreational bathing.
26 "Swimming pool" shall also include auxiliary structures
27 including dressing and locker rooms, toilets, showers,
28 and other areas and enclosures that are intended for
29 the use of persons using the pool, but shall not
30 include pools and auxiliary structures and equipment at
31 private single family residences intended only for the
32 use of the Owner, his household, and house guests.
- e) OWNER shall include, but not be limited to, any Person,
individual, corporation, firm, partnership,
association, business organization, or any other group
acting as a unit, as well as a trust or estate or the
agent or legal representative thereof who shall hold
title to the real estate upon which the pool is placed
or who shall be legally responsible for the operations
of the swimming pool or who shall be so designated as
the Owner on the permit application.
- f) PERMIT means a certificate of a size and style
previously approved and issued by the Health Officer.
- g) BOARD shall mean the Fort Wayne-Allen County Board of
Public Health of Fort Wayne, Allen County, Indiana.
- h) DEPARTMENT shall mean the Fort Wayne-Allen County Board
of Public Health of Fort Wayne, Allen County, Indiana.
- i) IMMINENT HEALTH HAZARD shall mean any event,
circumstance or situation, which in the sole discretion
of the Health Officer, presents a serious and present
health risk to a person or the public at large.

1 Sec. 27-23. Permit Requirements.

- 2 a) Nothing in this Article shall be construed as applying
3 to any swimming or wading pool maintained by an
4 individual for the sole use of his household and house
5 guests or to a pool in a hospital or health facility
6 approved by the State Board of Health, which pool is
7 used for individual therapy only and is drained and
8 filled prior to each individual use or to hot tubs or
9 jacuzies.
- 10 b) It shall be unlawful for any person to operate a
11 swimming pool in Fort Wayne, Indiana, who does not
12 possess a valid permit from the Health Officer. Such
13 permit shall be posted in a conspicuous place on the
14 premises of such swimming pool. Only persons who
15 comply with the applicable provisions of this Article
16 shall be entitled to receive and retain such a permit.
17 Such a permit shall be for a term of one (1) year, or
18 less, and shall be renewed annually on or before the
19 anniversary date established by the Health Officer.
20 Any permit issued by the Health Officer shall contain
21 the name and address of the Owner and such other data
22 as the Health Officer may deem necessary.
- 23 c) Swimming pools which operate only during the summer
24 months of May, June, July, August or September shall
25 pay the Department an annual permit fee of two hundred
26 dollars (\$200.00), which shall be submitted with the
27 initial or annual permit renewal application.
- 28 d) Swimming pools operating for periods longer than the
29 summer months shall pay to the Department an annual
30 permit fee of four hundred dollars (\$400.00) which
31 shall be submitted with the initial or annual permit
32 renewal application.
- 33 e) All permit fees shall be payable on or before the
34 established anniversary date as provided herein, and
35 shall be subject to an additional late penalty charge
36 of 10% of the permit fee if submitted after the permit
37 anniversary date.
- 38 f) Tax supported units of government shall be exempt from
39 the payment of the above prescribed fees, but shall pay
40 a permit processing fee of fifty dollars (\$50.00) for
41 each swimming pool.
- 42 g) In addition, a fee of fifty dollars (\$50.00) is to be
43 paid for each additional swimming pool operated by the
44 same Owner at the same address which is equipped with
45 separate filtration and disinfection systems.

46 Sec. 27-24. Construction, Sanitation and Operation
47 Requirements.

- 48 a) The requirements of Rule 410 IAC 6-2, as amended,
49 "Swimming and Wading Pool Operation" of the Indiana
50 State Board of health are hereby incorporated by
51 reference as part of this Article, and all swimming
52 pools shall be operated and maintained in accordance
53 with the terms and provisions of such Rule.
- 54 b) The requirements of Rule 410 IAC 6.2, as amended, are
55 hereby incorporated by reference as part of this
56 Article, and all swimming pools shall be operated and
57 maintained in accordance with the terms and provisions
58 of such Rule.

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- 2 c) The requirements of Rule 675 IAC 20, as amended, are
- 3 hereby incorporated by reference as part of this
- 4 Article, and all swimming pools shall be operated and
- 5 maintained in accordance with the terms and provisions
- 6 of such Rule.

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10 Sec. 27-25. Sewer Systems.

- 11 a) Treated swimming pool water or filter backwash water
- 12 shall not be discharged to residential or small
- 13 commercial building type sewage treatment systems.
- 14 Filter wash water may not be discharged directly to a
- 15 drain, ditch, stream or lake.

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19 Sec. 27-26. Depth Markings.

- 20 a) Depth of water shall be plainly marked at or above the
- 21 water surface on the vertical wall of the swimming
- 22 pool, and on the edge of the deck or walk next to the
- 23 swimming pool, at maximum and minimum depths.
- 24 b) Depth markers shall be plainly legible from the center
- 25 line of the pool. Where depth markers cannot be placed
- 26 on the vertical walls above the water level, other
- 27 means shall be used which are visible to persons in the
- 28 swimming pool.
- 29 c) Swimming pools having a diving board shall conform to
- 30 the minimum dimensions as set forth in Figure 2-1 of
- 31 675 I.A.C. 20-2-15.

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Sec. 27-27. Safety Requirement; Supervision Life Saving Equipment.

- a) A spine board with ties and rigid cervical collar must be provided and accessible at all times.
- b) Signs stating "No Diving" in clearly legible 3" high letters shall be displayed in non-diving and shallow portions (five [5] feet depth or less) of public and semi-public pools. Said display shall be in locations clearly visible to bathers entering the pool in non-diving areas. Diving shall not be allowed in pools or areas of pools that are not designed and constructed for that purpose. A "Pool Closed" sign in clearly legible letters must be posted when the pool is not open to bathers.

Sec. 27-28. Disinfection; Water Quality.

- a) All gaseous chlorine equipment shall be operated and maintained in accordance with the standards and recommendations of the Chlorine Institute, Incorporated. Pool equipment operating staff shall be trained in use of all such equipment including the self-contained breathing apparatus and shall be prepared to show evidence of that training. A plan of action for an emergency arising from the usage of gaseous chlorine shall be written, made known, posted and practiced.
- b) When chlorine is used, a free chlorine residual of at least 1.0 mg/l shall be maintained throughout the pool whenever it is open or in use. If other halogens are

used, residuals of equivalent disinfecting strength shall be maintained.

- c) The Department shall collect and shall examine from each swimming pool subject to this Article at least one bacteriological sample per week whenever the swimming pool is open for use.
- d) The swimming pool water shall be maintained in an alkaline condition as indicated by a pH of not less than 7.2 and not over 7.8. A pH testing kit accurate to the nearest 0.2 pH unit shall be provided at each swimming pool. The total alkalinity of the water shall be at least 80 parts per million (ppm).
- e) Not more than 15 percent of the samples covering any considerable period of time shall either:
 - (1) contain more than 200 bacteria per milliliter, as determined by the standard 35 Centigrade, agar plat count, or
 - (2) show positive test (confirmed test) for coliform organisms in any of the five 10-milliliter portions of a sample, or more than 1.0 coliform organisms per 50 milliliters when the membrane filter test is used.
- f) All samples shall be collected, dechlorinated, and examined for total plate count and coliform bacteria. Such test shall be performed in accordance with the procedures outlined in the latest edition of Standard Methods for the Examination of Water and Wastewater (APHA). Where samples are examined in laboratories other than those of the State Board of Health, copies of the report of examination shall be sent by the laboratory to the Division of Sanitary Engineering of the State Board of Health, using forms provided by that agency.

Sec. 27-29. Supervision.

- a) There shall be in attendance at all times, one or more qualified persons who has successfully completed current life guarding, cardio pulmonary resuscitation (CPR), and standard first aid courses given by the American Red Cross, YMCA, YWCA, or equivalent organizations, except as otherwise provided in 410 I.A.C. 6-2-11, as amended.
- b) Additional attendants shall be required so as to maintain a patron load of not more than seventy-five (75) persons per life guard when the pool is open for use.

Sec. 27-30. Powers for Inspection; Suspension; Revocation; Hearings and Orders.

- a) The Owner or his agent shall, upon the request of the Health Officer, permit access to all areas of the swimming pool and shall permit inspection of, access to, and the copying of any and all records relating to the operation of the swimming pool.
- b) Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Article, she shall

1 give notice of such alleged violation to the Owner
2 and/or agent, as hereinafter provided. Such notice:

- 3 (1) shall be in writing;
- 4 (2) shall include a statement of the reasons why
it is being issued;
- 5 (3) shall contain an outline of remedial action,
6 which, if taken, will effect compliance with
the provisions of the Article;
- 7 (4) shall allow a reasonable time for the
8 correction of the violations; and
- 9 (5) shall be served upon the Owner or his agent,
provided that such notice shall be deemed to
10 be properly served upon such Owner or agent,
11 if a copy thereof is sent by certified mail
to the address listed on the permit
12 application, or if a copy thereof is posted
in a conspicuous place in or about the
13 facility affected by the notice, or if the
Owner is served with such notice by any other
method authorized under the laws of this
14 state.

15 c) Any permit issued under the provisions of this Article
16 may be temporarily suspended by the Health Officer for
any of the following reasons:

- 17 (1) Failure to meet any of the standards required
by this Article.
- 18 (2) Violation of any provision or provisions of
this Article.
- 19 (3) Interference with the Health Officer or any
20 of his authorized representatives in
performance of their duties.

21 d) At the request of the Owner, a hearing shall be
22 afforded him within twenty-four (24) hours of the
issuance of the written temporary suspension order.

23 e) Notwithstanding any other provisions of this Article,
24 whenever the Health Officer finds insanitary or other
conditions, involving the operation of any swimming
25 pool operation which, in her opinion, constitutes an
imminent health hazard, she may, without notice, or
26 hearing, issue a written order to the Owner, citing the
existence of such condition and specifying corrective
27 action to be taken, and in the event that the
suspected or known imminent health hazard is found to
28 exist, require immediate discontinuance of operation.

- 29 (1) Such order shall be effective immediately.
- 30 (2) The Owner upon petitioning the Health
Officer, shall be afforded a hearing as soon
31 as possible.
- 32 (3) When the necessary corrective action has been
taken and the Owner so requests, the Health
Officer shall make a reinspection to
determine whether the operations may be
resumed.

f) Any permit issued hereunder may be revoked by the

Health Officer for willful or continuous violation of any provision or provisions of this Article.

- g) No such revocation shall be ordered by the Health Officer except upon hearing and at least 10 days written notice to the Owner of the time, place and nature of said hearing.
- h) Such notice shall be served upon the Owner by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.
- i) At such hearing, every person who is a party to such proceedings shall have the right to submit evidence and to cross-examine witnesses and to be represented by Counsel. All such hearings shall be conducted in a informal manner, but irrelevant, immaterial or unduly repetitious evidence shall be excluded.
- j) Upon the conclusion of such hearing, the Health Officer shall make a final order determining the issue, which order shall be final and conclusive upon all parties.
- k) Any Owner aggrieved by such an order shall be entitled to a review of the same before the Board by filing a written request therefore with the Secretary of the Board within 15 days after such order is issued. Upon receipt of such application, said Board shall hear the matter denovo in open hearing upon at least 10 days notice of the time, place and purpose thereof, which notice shall be issued by the Secretary of the Board to all persons affected.
- l) Such notice shall be served upon the Owner affected by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.
- m) At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Officer; provided, only, that upon written demand by the Owner, the Board shall cause the proceedings before it to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Board in the form of a transcript, a copy of which shall be available to any party.
- n) The expense of such proceedings shall be charged to the party applying for the review. The Board may require the party applying for a review to deposit with such request an amount as determined by it to secure such expense.
- o) The Board shall make written findings of the facts in the case and shall enter its final order or determination of the matter in writing in the permanent records of the Board.

Sec. 27-31. Enforcement and Penalties.

- a) It shall be the duty of the Health Officer to enforce the provisions of this Article. Any permit issued in conflict with the provisions of this Article shall be null and void. A violation of an Order issued by the Health Officer, Department or Board shall be considered to be a violation of this Article.

- b) Whenever the Health Officer determines that the Owner of any swimming pool is in willful violation of any of the provisions of this Article, the Health Officer shall furnish evidence of said willful violation to the attorney for the Board, who shall prosecute all persons violating said provisions of this Article.
- c) The operation of any swimming pool which is contrary to any of the provisions of this Article is hereby declared to be a common nuisance and an unlawful violation this Article; and the Owner of said swimming pool shall be liable for maintaining a common nuisance.
- d) Any Owner who violates any provision of this Article shall upon conviction be punished by a fine of not more than five hundred dollars (\$500.00) for each violation. Each day of the existence of any violation of this Article shall be a separate offense.
- e) The Health Officer may bring an action for an injunction in the Circuit Court or Superior Court of Allen County, Indiana, to restrain any Owner from violating the provisions of this Article or to cause such violation to be prevented, abated or removed.
- f) Any Owner violating any of the provisions of this Article shall become liable to the City of Fort Wayne for any expense, loss, or damage occasioned by reason of such violation, including reasonable attorney's fees and cost.
- g) The remedies provided for in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

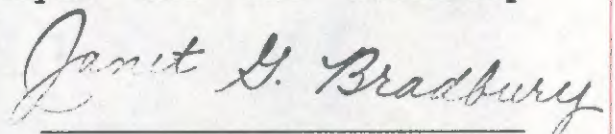
Sec. 27-32. Enforcement Interpretation.

- a) The Health Officer may initiate any procedures as she deems necessary for proper enforcement in order to carry out the purpose and intent of this Article.

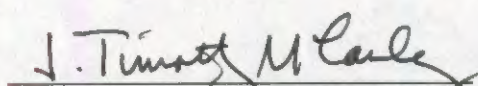
SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance.

SECTION 3. That this Ordinance be in full force and effect from and after its passage and any and all necessary approval by the Mayor and all necessary publication.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

1 BILL NO. G-90-07-37

2 GENERAL ORDINANCE NO. G-_____

3 AN ORDINANCE amending Article
4 III, Chapter 27 of the City of
5 Fort Wayne Code of Laws.

6 SECTION 1. That Article III, Chapter 27 of the
7 City of Fort Wayne Code of Laws be amended as follows:

8 Sec. 27-22. Definitions.

9 Unless the context specifically indicates otherwise,
10 the meaning of terms used in this Article shall be as
11 follows:

- 12 a) BATHER shall mean any person using the facility and
13 adjoining area for the purpose of therapy, relaxation,
14 recreation, or related activities.
- 15 b) HEALTH OFFICER shall mean the duly appointed,
16 qualified, and acting Health Officer of the Fort
17 Wayne/Allen County, Indiana, Board of Health or his
18 authorized representative.
- 19 c) PERSON shall mean any individual, partnership, firm,
20 company, corporation, association, municipality, other
21 division of government, or his or its legal
22 representative or agent.
- 23 d) SWIMMING POOL shall mean any structure, basin, chamber,
24 or tank containing a body of water for swimming,
25 diving, therapeutic, or recreational bathing; however,
26 nothing in this ordinance shall be construed as
27 applying to any swimming or wading pool maintained by
28 an individual for the sole use of his household and
29 house guests or to a pool in a hospital or health
30 facility approved by the State Board of Health, which
31 pool is used for individual therapy only and is drained
32 and filled prior to each individual use. "Swimming
pool" shall also include auxiliary structures including
dressing and locker rooms, toilets, showers, and other
areas and enclosures that are intended for the use of
persons using the pool, but shall not include pools and
auxiliary structures and equipment at private single
family residences intended only for the use of the
owner, his household, and house guests.

26 Sec. 27-23: Permit Requirements.

- 27 a) PERMIT It shall be unlawful for any person to operate
28 a swimming pool in Fort Wayne, Indiana, who does not
29 possess a valid permit from the Health Officer. Such
30 permit shall be posted in a conspicuous place on the
31 premises of such swimming pool. Only persons who
32 comply with the applicable provisions of this ordinance
shall be entitled to receive and retain such a
license. Such permit for a yearly operating pool shall
be for a term of one (1) year, to be renewed annually
on or prior to an anniversary date established by the
Health Officer. Any permit issued by the Health
Officer shall contain the name and address of the
person to whom a license is issued and such other data
as the Health Officer may deem necessary.
- b) PERMIT FEES. Swimming pools operating only during the
summer months shall pay to the office of the Health

Officer of Allen County, Indiana, a license fee of two-hundred dollars (\$ 200.00) each year, submitted with the initial or the annual permit renewal application. Swimming pools operating year round, or for periods longer than the summer months of May, June, July, August, and September, shall pay to the office of the Health Officer of Allen County, Indiana, a permit fee of four-hundred dollars (\$ 400.00) each year. All license fees shall be payable on or before the established anniversary date of the year intended for operation, and shall be subject to the addition of a late penalty charge of 10% of the permit fee if submitted after the permit expiration date of that year. The late penalty charge will not apply to pool facilities which were not in operation the previous year. Tax supported units of government shall be exempt from the payment of the above prescribed fees, but shall pay a license processing fee of fifty dollars (\$ 50.00) for each site of a swimming pool. In addition a fee of fifty dollars (\$ 50.00) is to be paid for each additional swimming pool operated by the same person and at the same address equipped with separate filtration and disinfection systems.

Sec. 27-24. Construction, Sanitation and Operation Requirements.

The requirements of Rule 410 IAC 6-2 "Swimming and Wading Pool Operation" of the Indiana State Board of Health are hereby incorporated by reference as part of this ordinance, and all public pools shall be operated and maintained in accordance with the terms and provisions of such rule.

Sec. 27-25. Water Supply.

The water supply serving the swimming pool and all plumbing fixtures including drinking fountains, lavatories, and showers shall be obtained from a municipal water supply system if at all possible; otherwise the water supply shall come from a source which meets the standards of 327 IAC 8-2 of the Indiana Department of Environmental Management.

All portions of the water distribution system serving the swimming pool and auxiliary facilities shall be protected against backflow and back-siphonage. Water introduced into the pool, either directly or to the recirculation system, shall be supplied through an air gap or by other methods acceptable to the Department of Fire and Building Services in accordance with 675 IAC 20-1-7, Indiana Swimming Pool Codes.

Sec. 27-26. Sewer Systems; Drains

The sewer system shall be adequate to serve the facility, including bathhouse, locker room, and related accommodations. The building drains and sewers shall have capacity to carry filter backwash flows without surcharging or flooding onto the equipment room floor. Filter wash water may not be discharged directly to a drain, ditch, stream, or lake if it is in violation of 327 IAC 2-1 of the Indiana Department of Environmental Management.

There shall be no direct physical connection between the sewer system and any drain from the swimming pool or recirculation system. Any swimming pool or gutter drain or overflow from the recirculation system when discharged to the sewer system, storm drain, or approved natural drainage course shall connect through a suitable air gap so as to

preclude possibility of backup of sewage or waste into the swimming pool piping system. All sumps, deck drainage systems, and other drainage fixtures or systems connected with the pool facility which discharge to a sewer or storm drain shall be properly trapped and vented to prevent sewer gases and odors from reaching the pool area.

The sanitary sewer serving the swimming pool and auxiliary facilities shall discharge to the public sewer system wherever possible. Where no such sewer is available, the connection shall be made to a suitable disposal plant designed, constructed, and operated in compliance with the applicable rules of the Indiana Department of Environmental Management. Treated swimming pool water or filter backwash water shall not be discharged to residential or small commercial building type sewage treatment systems.

Sec. 27-27. Depth Markers

Depth of water shall be plainly marked at or above the water surface on the vertical wall of the swimming pool, and on the edge of the deck or walk next to the swimming pool, at maximum and minimum depths, at the points or break between the deep and shallow portions, and at intermediate two foot (2) increments of water depth. The depth in diving areas shall be appropriately marked.

Depth markers shall be a color contrasting with background and plainly legible from the center line of the pool. Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used. Said markings shall be plainly visible to persons in the swimming pool.

Sec. 27-28. Visitor and Spectator Area; Food and Drink Areas.

There shall be absolute separation between the spaces used by visitors and spectators and those spaces used by bathers. Visitors and spectators in street clothes may be allowed within the perimeter enclosure if in a separate area segregated from the space used by the bathers by a fence at least 29 inches high.

No food or drink shall be permitted in the immediate area of the swimming pool or on the decks surrounding the pool except that food and beverage will be allowed in the visitor and spectator area, or in a similarly separated snack area for bathers, if beverages are served in nonbreakable containers and trash containers are provided to keep litter off of the pool decks.

Sec. 27-29. Safety Requirements; Supervision; Life Saving Equipment.

The swimming pool shall be under the supervision of a capable individual who shall assume the responsibility for compliance with all parts of 410 IAC 6-2 of the Indiana State Board of Health and any local ordinance relating to safety of bathers.

Enough acoustical treatment, including materials and ceiling design, shall be given to enclosed pool rooms to control noise levels. It is essential for safety that swimmers be able to hear signals and directions of routine supervision as well as emergency control.

Any swimming pool operated primarily for unorganized use and having an area of more than 2,000 square feet of water surface area shall be provided with an elevated

lifeguard platform or chair. Chairs should be placed in locations which eliminate sun glare on the water, and in positions which will give complete coverage of the pool within a field of view limited to 45 feet on either side of a line of sight extending straight out from the chair. In pools with 4,000 square feet or more of water surface area, additional elevated chairs or stations shall be provided, located so as to provide a clear unobstructed view of the pool bottom in the area under surveillance.

One unit of lifesaving equipment shall consist of all the following:

1. a ring or throwing buoy not more than 15 inches in diameter with enough weight for accurate throwing fitted with a 60- foot length of at least a 1/4-inch diameter line;

2. a life pole, or shepherd's crook type of pole, having blunted ends with minimum length of 16 feet;

3. a separate throwing line of 1/4-inch rope with length not less than 60 feet.

4. a spine board with ties and rigid cervical collar must be provided and accessible at all times.

Not less than one unit of equipment as listed above shall be provided at every public swimming pool. One unit shall be presumed to be adequate for 2,000 square feet of water surface area, and one additional unit shall be provided for each additional 2,000 square feet, or major fraction thereof, of water surface area. Any defective equipment listed in this section shall be discarded and replaced.

Every swimming pool shall be equipped with a standard first-aid kit, as approved by the American Red Cross or equivalent which shall be kept filled and ready for use. Availability of a kit in the office of the resident manager for a motel, apartment complex, or hotel shall satisfy this requirement for such pools.

Lifesaving equipment shall be mounted in conspicuous places distributed around the swimming pool deck, and at lifeguard chairs. It shall be readily accessible, within twenty (20) feet of the pool, its function plainly marked, and kept in repair and ready condition. Bathers or others shall not be permitted to tamper with or remove such equipment from its established location for any purpose other than the intended emergency use.

When the swimming pool is not open for use, access to the pool shall be prevented by fixed barrier with locked entrance.

Whenever the pool area is opened for use and no lifeguard service is provided, warning signs shall be placed in plain view at the entrances and inside the pool area which state "Warning-No Lifeguard on Duty" with clearly legible letters, at least 4 inches high. In addition, the signs shall also state in clearly legible letters at least 2 inches high, "No Swimming Alone. Children Under 14 Years of Age and Non-Swimmers Shall Not Use the Pool Unless Accompanied By a Responsible Adult." Signs stating "No Diving" in clearly legible letters of at least 4" high shall be displayed in non diving and shallow portions (five (5) feet depth or less) of public and semi public pools in locations clearly visible to bathers entering the pool in non diving areas. A "Pool Closed" sign in clearly legible letters must be posted when the of pool is not open to

1 bathers. Diving shall not be allowed in pools or areas of
2 pools that are not designed and constructed for that
purpose.

3 Every swimming pool shall have a readily accessible
4 room or area designated and equipped for emergency care. A
properly connected usable telephone shall be located as
5 close to the pool deck as possible, but not more than one
hundred (100) feet distance from the swimming pool.

6 **Sec. 27-30. Disinfection; Water Quality.**

7 Swimming pools when in use shall be continuously and
8 automatically disinfected by a chemical which imparts an
easily measured, free available residual effect. When
9 chlorine is used, a free chlorine residual of at least
1.0 mg/l shall be maintained throughout the pool whenever it
10 is open or in use. If other halogens are used, residuals of
equivalent disinfecting strength shall be maintained. Any
11 time that the residual disinfectant level is below the
minimum designated above, the pool shall be cleared and kept
12 free of swimmers until that minimum level has been
obtained. A testing kit for measuring the concentration of
the disinfectant, accurate within 0.2 mg/l and covering a
13 minimum range of 0.3 mg/l to 2.0 mg/l as free chlorine,
shall be used at each swimming pool.

14 Use of gaseous chlorine for disinfection is not
15 recommended. However, a self-contained breathing apparatus,
with air supply, designed for use in a chlorine atmosphere,
16 shall be provided when using gaseous chlorine. The
self-contained breathing apparatus shall be kept in a closed
17 cabinet, accessible without a key, located outside of the
room in which the chlorinator is maintained. All gaseous
18 chlorine equipment shall be operated and maintained in
accordance with the standards and recommendations of the
19 Chlorine Institute, Incorporated. Pool equipment operating
staff shall be trained in use of all such equipment
20 including the self-contained breathing apparatus and shall
be prepared to show evidence that training. A plan of
21 action for an emergency arising from the usage of gaseous
chlorine shall be written, made known, posted and practiced.

22 The Health Officer may accept other disinfecting
23 materials or methods when such materials or methods have
been adequately demonstrated to provide a satisfactory
24 residual effect which is easily measured and to be otherwise
equally as effective under conditions of use as the chlorine
25 concentration required herein. Such materials and methods
shall not be dangerous to public health, create
26 objectionable physiological effects, or impart toxic
properties to the water.

27 The swimming pool water shall be maintained in an
28 alkaline condition as indicated by a pH of not less than 7.2
and not over 7.8. A pH testing kit accurate to the nearest
29 0.2 pH unit shall be provided at each swimming pool. The
total alkalinity of the water shall be at least 80 parts per
30 million (ppm).

31 The water shall have sufficient clarity at all times so
32 that a black disk, six inches in diameter, is readily
visible when placed on a white field at the deepest point of
the swimming pool. Failure to meet this requirement shall
constitute grounds for immediate closing of the pool.

The Fort Wayne - Allen County Board of Public Health
will collect and examine at least one bacteriological
sample per week whenever the swimming pool is open for use.

Not more than 15 percent of the samples covering any considerable period of time shall either:

1. contain more than 200 bacteria per milliliter, as determined by the standard 35 Centigrade, agar plate count, or

2. show positive test (confirmed test) for coliform organisms in any of the five 10-milliliter portions of a sample, or more than 1.0 coliform organisms per 50 milliliters when the membrane filter test is used.

All samples shall be collected, dechlorinated, and examined for total plate count and coliform bacteria. Such test shall be performed in accordance with the procedures outlined in the latest edition of Standard Methods for the Examination of Water and Wastewater (APHA). Where samples are examined in laboratories other than those of the State Board of Health, copies of the report of examination shall be sent by the laboratory to the Division of Sanitary Engineering of the State Board of Health, using forms provided by that agency.

The right is reserved to close any pool in the event of any epidemic or threatened epidemic of disease which the Health Officer or the State Board of Health may have reason to believe may be transmitted through the use of swimming pools, or because of continued failure to meet the standards for bacterial quality established herein, or until recommended improvements are made.

Chemicals used in controlling the quality of water shall be demonstrated as imparting no toxic properties to the water. The addition of chemicals for algae control shall be approved by the State Board of Health.

Sec. 27-31. Suits and Towels; Cleaning.

All multi-use suits and towels furnished to bathers by the pool management shall be washed thoroughly with soap and hot water, rinsed, and thoroughly dried after each use. If water of less than 175 Fahrenheit is used for washing, the suits shall be rinsed in a disinfectant.

Clean suits and towels must be kept strictly separated from those which have been used and are unlaundered. Appropriate swimwear must be worn by bathers (street clothes, prohibited).

Sec. 27-32. Cleaning Pools.

Visible dirt on the bottom of the swimming pool shall be removed every 24 hours or more frequently as required.

Visible scum or floating matter on the swimming pool surface shall be removed continuously by skimming, flushing, or other effective means.

Sec. 27.33. Records of Operation; Supervision.

The facilities and mechanical equipment of every swimming pool shall be operated under the close supervision of a trained operator.

Proper operating records, which may include the following as required by the state or local board of health, shall be kept daily showing:

1. bather loads - total;

2. peak bather load;
3. volume of fresh water added;
4. operating periods of recirculation pumps and filters and corresponding rate-of- flow meter readings;
5. amounts of chemicals used;
6. disinfectant residuals;
7. pH readings;
8. maintenance (and malfunctioning) of equipment.

Such records shall be open to inspection by health authorities at all times and weekly summaries of these reports shall be submitted to the appropriate health authority on request, using forms furnished by that authority.

Sec. 27-34. Supervision; Personal Conduct Regulations.

One or more qualified attendants, trained in and possessing as minimum qualifications current life guard training, cardio pulmonary resuscitation (CPR), and standard first aid course by the American Red Cross, YMCA, YWCA, or equivalent, shall be on duty when the pool is in use. Additional attendants are required sufficient to maintain a patron load of not more than seventy-five (75) persons per life guard. An attendant qualified as a life saver under previous requirements of this rule shall be allowed two (2) years from the effective date of this Article or until expiration of their current certification, whichever is less to meet the life guard requirements as defined herein. Lifeguards shall be on duty at pool sides at all times when the swimming pool is open to use by bathers, except at pools with less than 2,000 square feet of water surface used exclusively by a motel, apartment complex, hotel, or similar occupancy in compliance with Section 27-29. Such attendant should be in full charge of bathing and have authority to enforce all rules of safety and sanitation.

At least one individual trained in first-aid shall be available on the grounds of each pool while it is open to use by bathers. The American Red Cross basic course in first-aid or its equivalent may be considered as a minimum qualification for the designation "trained in first-aid."

The following personal conduct regulations shall be enforced:

1. All bathers shall be instructed to use the toilet, and particularly to urinate, before taking cleansing bath and entering the pool.
2. All persons using the swimming pool shall take a cleansing shower bath in the nude, using warm water and soap, and thoroughly rinsing off all soap suds, before entering the swimming pool rooms or enclosure. A bather leaving the pool to use the toilet shall take another cleansing bath before returning to the swimming pool room or enclosure. A bather leaving the pool to use the toilet shall take another cleansing bath before returning to the swimming pool room or enclosure.
3. Spitting, spouting of water, or blowing the

nose, etc., in the swimming pool shall be strictly prohibited.

4. No running, boisterous or rough play, except supervised water sports, shall be permitted in the pool, on the runways, diving boards, floats, platforms, or in dressing rooms, shower rooms, etc.

5. Suitable placards embodying the above personal conduct regulations and instructions, and those relating to suits and towels, shall be conspicuously posted in the swimming pool room or enclosure and in the dressing rooms and offices at all swimming pools which are subject to this Article.

6. Any person having an infectious or communicable disease shall be excluded from a public swimming pool. Persons having any considerable area of exposed sub-epidermal tissue, open blisters, cuts, etc., shall be warned that these are likely to become infected and advised not to use the pool.

Sec. 27-35. Powers for Inspection; Enforcement; Service of Notices and Order Hearings.

The Health Officer or his duly authorized agent, bearing proper credentials and identification, shall be permitted to enter upon all properties at proper times for the purpose of inspection, and/or monitoring necessary to carry out the provisions of this Article.

Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Article, he shall give notice to such alleged violation to the person or persons responsible therefore, and to any known agent of such person, as hereinafter provided. Such notice shall:

1. be in written form;
2. include a statement of reasons why it is being issued;
3. allow a reasonable time for the performance of any act it requires;
4. be served upon the owner or his agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent, or upon him personally, or if a copy thereof is sent by certified mail to his last known address or if a copy thereof is posted in a conspicuous place in or about the facility affected by notice, or if he is served with such notice by any other method authorized or required under the laws of this state;
5. such notice must contain an outline of remedial action, which, if taken, will effect compliance with the provisions of the Article.

Any person affected by any such notice issued by the Health Officer may request and shall be granted a hearing on the matter before said officer provided that such person shall file in the office of the latter within ten (10) days

after service of the notice, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. Upon receipt of such petition, the Health Officer shall arrange a time and place for such hearing and shall give the petitioner written notice thereof. Such hearing shall be heard as soon as practical after the receipt of request therefore. At such hearing, the petitioner shall be given an opportunity to be heard and to show cause why compliance with this Article should not be met.

After such hearing, the Health Officer shall sustain, modify, or withdraw the notice, depending upon his findings as to whether compliance with the provisions of this Article have been met. If the Health Officer shall sustain or modify such notice, it shall be deemed to be an order. Any notice served pursuant to this Section shall automatically become an order if a written petition for a hearing is not filed in the office of the Health Officer within the ten (10) days after such notice is served.

Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this Article, such order shall be effective immediately, but upon petition to the Health Officer, the petitioner shall be afforded a hearing as soon as possible, in the manner provided in this Section. After such hearing, depending upon the finding as to whether the provisions of this Article have been complied with, the Health Officer shall continue such order in effect, or modify it, or revoke it.

Any person, firm, or corporation who shall violate any provision of this Article shall be served by the Health Officer with a written order stating the nature of the violation and providing a time limit for satisfactory correction thereof.

Any person, firm, or corporation who shall violate any provision of this Article shall be subject to penalty as hereinafter prescribed in this Section. On being found to have violated the provisions of this Article, the violator shall be punished for the first offense by a fine of five hundred dollars (\$500.00); for the second offense by a fine of not more than one thousand dollars (\$1000.00); and for third and each subsequent offense by a fine of not more than one thousand dollars (\$1000.00). Each day after the expiration of the time limit for abating and completing improvements as ordered by the Allen County Health Department, or by the duly appointed Health Officer of the county, shall constitute a distinct and separate offense.

Any person violating any of the provisions of this Article shall become liable to said county for any expense, loss, or damage occasioned by reason of such violation.

Sec. 27-37. Enforcement Interpretation.


The Health Officer may initiate any procedures as he deems necessary for proper enforcement and to carry out the purpose and intent of this Article.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PAGE 10

The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance.

SECTION 3. That this Ordinance be in full force and effect from and after its passage and any and all necessary approval by the Mayor and all necessary publication.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Bradbury, seconded by Delaney, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock, _____ M., E.S.T.

DATED: 7-24-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by Delaney, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			<u>2</u>
BRADBURY	<u>✓</u>			
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA				<u>✓</u>
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO				<u>✓</u>

DATED: 9-11-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. B-24-90

on the 11th day of September, 1990,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of September, 1990 at the hour of 2:00 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of September, 1990, at the hour of 5:45 o'clock P. M., E.S.T.

PAUL HELMKE
PAUL HELMKE, MAYOR

7-11-90

BILL NO. G-90-07-37 (as amended)

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON _____ REGULATIONS _____ TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Article III,
Chapter 27 of the City of Fort Wayne Code of Laws
(Swimming Pool Ordinance)

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~) _____

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<i>Janet G. Bradbury</i>			
<i>David C. Long</i>			
<i>Clifford R. Edmonds</i>			
<i>David Long</i>			

DATED: 9-11-90

Sandra E. Kennedy
City Clerk

Admn. Appr. _____

DIGEST SHEET

*hold for
9/11*

TITLE OF ORDINANCE GENERAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE BOARD OF HEALTH

SYNOPSIS OF ORDINANCE _____

*D-90-07-37
(reconsidered)*

- 1) Revamps existing swimming pools ordinance.
- 2) Increases permit fees.
- 3) Establishes safety standards for public pools.
- 4) Establishes sanitary standards for public pools.

EFFECT OF PASSAGE _____

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. G-90-07-37

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Article III
Chapter 27 of the City of Fort Wayne Code of Laws

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Clarence R. Edmond

Samuel J. Talarico

DATED:

Sandra E. Kennedy
City Clerk



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

September 18, 1990

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the dates of
September 21 & September 28, 1990, in both the News
Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-90-07-37 (as amended)
General Ordinance No. G-24-90
Swimming Pool Ordinance

Please send us 4 copies of the Publisher's Affidavit from
both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy
Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

LEGAL NOTICE

Notice is hereby given that on the 11th day of
September, 19 90, the Common Council of the City
of Fort Wayne, Indiana, in a Regular Session did pass
the following Bill No. G-90-07-37 (as amended) General
Ordinance No. G-24-90 to-wit:

BILL NO. G-90-07-37 (AS AMENDED)

GENERAL ORDINANCE NO. G- 24-90

AN ORDINANCE amending Article
III, Chapter 27 of the City of
Fort Wayne Code of Laws.

SECTION 1. That Article III, Chapter 27 of the
City of Fort Wayne Code of Laws be amended as follows:
Sec. 27-22. Definitions.

Unless the context specifically indicates otherwise,
the meaning of terms used in this ordinance shall be as
follows:

- a) BATHER shall mean any person using the facility and adjoining area for the purpose of therapy, relaxation, recreation, or related activities.
- b) HEALTH OFFICER shall mean the duly appointed, qualified, and acting Health Commissioner of Fort Wayne/Allen County, Indiana, or her authorized representative.
- c) PERSON shall mean any individual, partnership, firm, company, corporation, association, municipality, other division of government, or his or its legal representative or agent.
- d) SWIMMING POOL shall mean any structure, basin, chamber, or tank containing a body of water for swimming, diving, therapeutic, or recreational bathing. "Swimming pool" shall also include auxiliary structures including dressing and locker rooms, toilets, showers, and other areas and enclosures that are intended for the use of persons using the pool, but shall not include pools and auxiliary structures and equipment at private single family residences intended only for the use of the Owner, his household, and house guests.
- e) OWNER shall include, but not be limited to, any Person, individual, corporation, firm, partnership, association, business organization, or any other group acting as a unit, as well as a trust or estate or the agent or legal representative thereof who shall hold title to the real estate upon which the pool is placed or who shall be legally responsible for the operations of the swimming pool or who shall be so designated as the Owner on the permit application.
- f) PERMIT means a certificate of a size and style previously approved and issued by the Health Officer.
- g) BOARD shall mean the Fort Wayne-Allen County Board of Public Health of Fort Wayne, Allen County, Indiana.
- h) DEPARTMENT shall mean the Fort Wayne-Allen County Board of Public Health of Fort Wayne, Allen County, Indiana.
- i) IMMINENT HEALTH HAZARD shall mean any event, circumstance or situation, which in the sole discretion of the Health Officer, presents a serious and present health risk to a person or the public at large.

Sec. 27-23. Permit Requirements.

- a) Nothing in this Article shall be construed as applying to any swimming or wading pool maintained by an individual for the sole use of his household and house guests or to a pool in a hospital or health facility approved by the State Board of Health, which pool is used for individual therapy only and is drained and filled prior to each individual use or to hot tubs or jacuzies.
- b) It shall be unlawful for any person to operate a swimming pool in Fort Wayne, Indiana, who does not possess a valid permit from the Health Officer. Such permit shall be posted in a conspicuous place on the premises of such swimming pool. Only persons who comply with the applicable provisions of this Article shall be entitled to receive and retain such a permit. Such a permit shall be for a term of one (1) year, or less, and shall be renewed annually on or before the anniversary date established by the Health Officer. Any permit issued by the Health Officer shall contain the name and address of the Owner and such other data as the Health Officer may deem necessary.
- c) Swimming pools which operate only during the summer months of May, June, July, August or September shall pay the Department an annual permit fee of two hundred dollars (\$200.00), which shall be submitted with the initial or annual permit renewal application.
- d) Swimming pools operating for periods longer than the summer months shall pay to the Department an annual permit fee of four hundred dollars (\$400.00) which shall be submitted with the initial or annual permit renewal application.
- e) All permit fees shall be payable on or before the established anniversary date as provided herein, and shall be subject to an additional late penalty charge of 10% of the permit fee if submitted after the permit anniversary date.
- f) Tax supported units of government shall be exempt from the payment of the above prescribed fees, but shall pay a permit processing fee of fifty dollars (\$50.00) for each swimming pool.
- g) In addition, a fee of fifty dollars (\$50.00) is to be paid for each additional swimming pool operated by the same Owner at the same address which is equipped with separate filtration and disinfection systems.

Sec. 27-24. Construction, Sanitation and Operation Requirements.

- a) The requirements of Rule 410 IAC 6-2, as amended, "Swimming and Wading Pool Operation" of the Indiana State Board of health are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such Rule.
- b) The requirements of Rule 410 IAC 6.2, as amended, are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such Rule.

- 1
- 2 c) The requirements of Rule 675 IAC 20, as amended, are
- 3 hereby incorporated by reference as part of this
- 4 Article, and all swimming pools shall be operated and
- 5 maintained in accordance with the terms and provisions
- 6 of such Rule.

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10 Sec. 27-25. Sewer Systems.

- 11 a) Treated swimming pool water or filter backwash water
- 12 shall not be discharged to residential or small
- 13 commercial building type sewage treatment systems.
- 14 Filter wash water may not be discharged directly to a
- 15 drain, ditch, stream or lake.

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19 Sec. 27-26. Depth Markings.

- 20 a) Depth of water shall be plainly marked at or above the
- 21 water surface on the vertical wall of the swimming
- 22 pool, and on the edge of the deck or walk next to the
- 23 swimming pool, at maximum and minimum depths.
- 24 b) Depth markers shall be plainly legible from the center
- 25 line of the pool. Where depth markers cannot be placed
- 26 on the vertical walls above the water level, other
- 27 means shall be used which are visible to persons in the
- 28 swimming pool.
- 29 c) Swimming pools having a diving board shall conform to
- 30 the minimum dimensions as set forth in Figure 2-1 of
- 31 675 I.A.C. 20-2-15.
- 32

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36 Sec. 27-27. Safety Requirement; Supervision Life Saving

37 Equipment.

- 38 a) A spine board with ties and rigid cervical collar must
- 39 be provided and accessible at all times.
- 40 b) Signs stating "No Diving" in clearly legible 3" high
- 41 letters shall be displayed in non-diving and shallow
- 42 portions (five [5] feet depth or less) of public and
- 43 semi-public pools. Said display shall be in locations
- 44 clearly visible to bathers entering the pool in non-
- 45 diving areas. Diving shall not be allowed in pools or
- 46 areas of pools that are not designed and constructed
- 47 for that purpose. A "Pool Closed" sign in clearly
- 48 legible letters must be posted when the pool is not
- 49 open to bathers.

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53 Sec. 27-28. Disinfection; Water Quality.

- 54 a) All gaseous chlorine equipment shall be operated and
- 55 maintained in accordance with the standards and
- 56 recommendations of the Chlorine Institute,
- 57 Incorporated. Pool equipment operating staff shall be
- 58 trained in use of all such equipment including the
- 59 self-contained breathing apparatus and shall be
- 60 prepared to show evidence of that training. A plan of
- 61 action for an emergency arising from the usage of
- 62 gaseous chlorine shall be written, made known, posted
- 63 and practiced.
- 64 b) When chlorine is used, a free chlorine residual of at
- 65 least 1.0 mg/l shall be maintained throughout the pool
- 66 whenever it is open or in use. If other halogens are

used, residuals of equivalent disinfecting strength shall be maintained.

- c) The Department shall collect and shall examine from each swimming pool subject to this Article at least one bacteriological sample per week whenever the swimming pool is open for use.
- d) The swimming pool water shall be maintained in an alkaline condition as indicated by a pH of not less than 7.2 and not over 7.8. A pH testing kit accurate to the nearest 0.2 pH unit shall be provided at each swimming pool. The total alkalinity of the water shall be at least 80 parts per million (ppm).
- e) Not more than 15 percent of the samples covering any considerable period of time shall either:
 - (1) contain more than 200 bacteria per milliliter, as determined by the standard 35 Centigrade, agar plat count, or
 - (2) show positive test (confirmed test) for coliform organisms in any of the five 10-milliliter portions of a sample, or more than 1.0 coliform organisms per 50 milliliters when the membrane filter test is used.
- f) All samples shall be collected, dechlorinated, and examined for total plate count and coliform bacteria. Such test shall be performed in accordance with the procedures outlined in the latest edition of Standard Methods for the Examination of Water and Wastewater (APHA). Where samples are examined in laboratories other than those of the State Board of Health, copies of the report of examination shall be sent by the laboratory to the Division of Sanitary Engineering of the State Board of Health, using forms provided by that agency.

Sec. 27-29. Supervision.

- a) There shall be in attendance at all times, one or more qualified persons who has successfully completed current life guarding, cardio pulmonary resuscitation (CPR), and standard first aid courses given by the American Red Cross, YMCA, YWCA, or equivalent organizations, except as otherwise provided in 410 I.A.C. 6-2-11, as amended.
- b) Additional attendants shall be required so as to maintain a patron load of not more than seventy-five (75) persons per life guard when the pool is open for use.

Sec. 27-30. Powers for Inspection; Suspension; Revocation; Hearings and Orders.

- a) The Owner or his agent shall, upon the request of the Health Officer, permit access to all areas of the swimming pool and shall permit inspection of, access to, and the copying of any and all records relating to the operation of the swimming pool.
- b) Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Article, she shall

1 give notice of such alleged violation to the Owner
2 and/or agent, as hereinafter provided. Such notice:

- 3 (1) shall be in writing;
- 4 (2) shall include a statement of the reasons why
5 it is being issued;
- 6 (3) shall contain an outline of remedial action,
7 which, if taken, will effect compliance with
8 the provisions of the Article;
- 9 (4) shall allow a reasonable time for the
10 correction of the violations; and
- 11 (5) shall be served upon the Owner or his agent,
12 provided that such notice shall be deemed to
13 be properly served upon such Owner or agent,
14 if a copy thereof is sent by certified mail
15 to the address listed on the permit
16 application, or if a copy thereof is posted
17 in a conspicuous place in or about the
18 facility affected by the notice, or if the
19 Owner is served with such notice by any other
20 method authorized under the laws of this
21 state.

22 c) Any permit issued under the provisions of this Article
23 may be temporarily suspended by the Health Officer for
24 any of the following reasons:

- 25 (1) Failure to meet any of the standards required
26 by this Article.
- 27 (2) Violation of any provision or provisions of
28 this Article.
- 29 (3) Interference with the Health Officer or any
30 of his authorized representatives in
31 performance of their duties.

32 d) At the request of the Owner, a hearing shall be
afforded him within twenty-four (24) hours of the
issuance of the written temporary suspension order.

e) Notwithstanding any other provisions of this Article,
whenever the Health Officer finds insanitary or other
conditions, involving the operation of any swimming
pool operation which, in her opinion, constitutes an
imminent health hazard, she may, without notice, or
hearing, issue a written order to the Owner, citing the
existence of such condition and specifying corrective
action to be taken, and in the event that the
suspected or known imminent health hazard is found to
exist, require immediate discontinuance of operation.

- (1) Such order shall be effective immediately.
- (2) The Owner upon petitioning the Health
Officer, shall be afforded a hearing as soon
as possible.
- (3) When the necessary corrective action has been
taken and the Owner so requests, the Health
Officer shall make a reinspection to
determine whether the operations may be
resumed.

f) Any permit issued hereunder may be revoked by the

Health Officer for willful or continuous violation of any provision or provisions of this Article.

g) No such revocation shall be ordered by the Health Officer except upon hearing and at least 10 days written notice to the Owner of the time, place and nature of said hearing.

h) Such notice shall be served upon the Owner by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.

i) At such hearing, every person who is a party to such proceedings shall have the right to submit evidence and to cross-examine witnesses and to be represented by Counsel. All such hearings shall be conducted in a informal manner, but irrelevant, immaterial or unduly repetitious evidence shall be excluded.

j) Upon the conclusion of such hearing, the Health Officer shall make a final order determining the issue, which order shall be final and conclusive upon all parties.

k) Any Owner aggrieved by such an order shall be entitled to a review of the same before the Board by filing a written request therefore with the Secretary of the Board within 15 days after such order is issued. Upon receipt of such application, said Board shall hear the matter denovo in open hearing upon at least 10 days notice of the time, place and purpose thereof, which notice shall be issued by the Secretary of the Board to all persons affected.

l) Such notice shall be served upon the Owner affected by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.

m) At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Officer; provided, only, that upon written demand by the Owner, the Board shall cause the proceedings before it to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Board in the form of a transcript, a copy of which shall be available to any party.

n) The expense of such proceedings shall be charged to the party applying for the review. The Board may require the party applying for a review to deposit with such request an amount as determined by it to secure such expense.

o) The Board shall make written findings of the facts in the case and shall enter its final order or determination of the matter in writing in the permanent records of the Board.

Sec. 27-31. Enforcement and Penalties.

a) It shall be the duty of the Health Officer to enforce the provisions of this Article. Any permit issued in conflict with the provisions of this Article shall be null and void. A violation of an Order issued by the Health Officer, Department or Board shall be considered to be a violation of this Article.

PAGE 7

- 1 b) Whenever the Health Officer determines that the Owner
2 of any swimming pool is in willful violation of any of
3 the provisions of this Article, the Health Officer
4 shall furnish evidence of said willful violation to the
5 attorney for the Board, who shall prosecute all persons
6 violating said provisions of this Article.
- 7 c) The operation of any swimming pool which is contrary to
8 any of the provisions of this Article is hereby
9 declared to be a common nuisance and an unlawful
10 violation this Article; and the Owner of said swimming
11 pool shall be liable for maintaining a common nuisance.
- 12 d) Any Owner who violates any provision of this Article
13 shall upon conviction be punished by a fine of not more
14 than five hundred dollars (\$500.00) for each violation.
15 Each day of the existence of any violation of this
16 Article shall be a separate offense.
- 17 e) The Health Officer may bring an action for an
18 injunction in the Circuit Court or Superior Court of
19 Allen County, Indiana, to restrain any Owner from
20 violating the provisions of this Article or to cause
21 such violation to be prevented, abated or removed.
- 22 f) Any Owner violating any of the provisions of this
23 Article shall become liable to the City of Fort Wayne
24 for any expense, loss, or damage occasioned by reason
25 of such violation, including reasonable attorney's fees
26 and cost.
- 27 g) The remedies provided for in this section shall be
28 cumulative, and not exclusive, and shall be in addition
29 to any other remedy provided by law.

30 Sec. 27-32. Enforcement Interpretation.

- 31 a) The Health Officer may initiate any procedures as she
deems necessary for proper enforcement in order to
carry out the purpose and intent of this Article.

SECTION 2. All ordinances or parts of ordinances
in conflict herewith are hereby repealed.

The invalidity of any section, clause, sentence,
or provision of this ordinance shall not affect the validity
of any other part of this ordinance.

SECTION 3. That this Ordinance be in full force
and effect from and after its passage and any and all
necessary approval by the Mayor and all necessary
publication.

Janet G. Bradbury
Councilmember

Read the third time in full and on motion by Bradbury, seconded by Henry, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Seven
Bradbury, Burns, Edmonds, Henry, Long, Redd,
Schmidt

NAYS: None

ABSTAINED: None

ABSENT: Two
GiaQuinta, Talarico

DATED: 9-11-90

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-24-90 on the 11th day of September, 1990.

ATTEST:

(SEAL)

Sandra E. Kennedy
City Clerk

Charles B. Redd
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of September, 1990, at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 14th day of September, 1990, at the hour of 5:45 o'clock P.M., E.S.T.


Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of

General Ordinance No. G-24-90,
passed by the Common Council on the 11th day of
September, 19 90, and that said Ordinance was
duly signed and approved by the Mayor on the 14th day of
September, 19 90, and now remains on file and
on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne,
Indiana, this 14th day of September, 19 90.

SEAL


SANDRA E. KENNEDY, CITY CLERK

Ft. Wayne Common Council

(Governmental Unit)

To:

The Journal-Gazette

Dr.

P.O. Box 100

Fort Wayne, IN

Allen County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set) -- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

433 lines, 1 columns wide equals 433 equivalent lines at .495 cents per line

\$ 214.34

Additional charge for notices containing rule or tabular work (50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$ 216.34

DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 21

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Nicole Allred

Date: September 28, 19 90

Title: Clerk

FIDAVIT

Notary public in and for said county and state, the _____ who, being duly sworn, says that he/ The Journal-Gazette newspaper of general in the English language in the (city) (town) of _____ county aforesaid, and that the printed matter which was duly published in said paper for publication being as follows:

Nicole Allred

28th day of Sept. 19 90

Shelley R. Larue
Notary Public Whitley County, IN
SHELLEY R. LARUE

WASH

NORTH ANTHONY CAR WASH
3309 N. Anthony Blvd. 483-4213
Full Service Car Wash - Under New Management

DELUXE FULL SERVICE
Reg. 12.75 Priced Separately
• Inside/Outside Wash
• Foam Wax-Hot Wax
• Under Body Rust Inhibitor spray
• Camelot - N. Anthony Car Wash - Expires 10-31-90
\$8.75
WITH COUPON ONLY

BY-PASS
IL-PU
NORTH ANTHONY
ATZ
★
GEORGE'S

Ft. Wayne Common Council

To: The News-Sentinel Dr.

(Governmental Unit)

P.O. Box 100

Allen

Fort Wayne, IN

County, Indiana

PUBLISHER'S CLAIM

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Charge for extra proofs of publication (\$1.00 for each proof in excess of two) 2.00

TOTAL AMOUNT OF CLAIM \$ 216.34

DATA FOR COMPUTING COST

Width of single column 12.5 ems Number of insertions 21 Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: September 28, 1990

Title: Clerk

LEGAL NOTICE
Notice is hereby given that on the 11th day of September, 1990, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-90-07-37 (as amended) General Ordinance No. G-24-90 to-wit:
BILL NO. G-90-07-37 (AS AMENDED)
GENERAL ORDINANCE NO. G-24-90
AN ORDINANCE amending Article III, Chapter 27 of the City of Fort Wayne Code of Laws.
SECTION 1. That Article III, Chapter 27 of the City of Fort Wayne Code of Laws be amended as follows:
Sec. 27-22. Definitions.
Unless the context specifically indicates otherwise the meaning of terms used in this ordinance shall be as follows:
a) BATHER shall mean any person using the facility and adjoining area for the purpose of therapy, relaxation, recreation, or related activities.
b) HEALTH OFFICER shall mean the duly appointed qualified, and acting Health Commissioner of Fort Wayne/Allen County, Indiana, or her authorized representative.
c) PERSON shall mean any individual, partnership, firm, company, corporation, association, municipality, other division of government, or his or its legal representative or agent.
d) SWIMMING POOL shall mean any structure, basin, chamber, or tank containing a body of water for
Sec. 27-29. Supervision.
a) There shall be in attendance at all times, one or more qualified persons who has successfully completed current life guarding, cardio pulmonary resuscitation (CPR), and standard first aid courses

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Nicole Allred who, being duly sworn, says that he/ she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter

attached hereto is a true copy, which was duly published in said paper for time (s), the dates of publication being as follows:

9/21, 28/90

Subscribed and sworn to before me this 28th day of Sept., 1990.

Notary Public Whitley County, IN
SHELLEY R. LARUE

My commission expires: March 3, 1994

September, 1990, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-90-07-37 (as amended) General Ordinance No. G-24-90 to-wit:

BILL NO. G-90-07-37 (AS AMENDED)

GENERAL ORDINANCE NO. G-24-90

ORDINANCE amending Article III, Chapter 27 of the City of Fort Wayne Code of Laws.

SECTION 1. That Article III, Chapter 27 of the City of Fort Wayne Code of Laws be amended as follows:

Sec. 27-22. Definitions.

Unless the context specifically indicates otherwise a meaning of terms used in this ordinance shall be as follows:

a) **BATHER** shall mean any person using the facility of adjoining area for the purpose of therapy, taxation, recreation, or related activities.

b) **HEALTH OFFICER** shall mean the duly pointed qualified, and acting Health Commissioner of Fort Wayne/Allen County, Indiana, or her authorized representative.

c) **PERSON** shall mean any individual, partnership, firm, company, corporation, association, municipality, or division of government, or his or its legal representative or agent.

d) **SWIMMING POOL** shall mean any structure, bath, shower, or tank containing a body of water for swimming, diving, therapeutic, or recreational purposes. "Swimming pool" shall also include auxiliary structures including dressing and locker rooms, toilets, showers, and other areas and enclosures that are intended for the use of persons using the pool, but shall not include pools and auxiliary structures and equipment at private single family residences intended for the use of the Owner, his household, and house guests.

e) **OWNER** shall include, but not be limited to, any person, individual, corporation, firm, partnership, association, business organization, or any other group acting as a unit, as well as a trust or estate or the legal representative thereof who shall hold title of real estate upon which the pool is placed or who shall be legally responsible for the operations of the swimming pool or who shall be so designated as the owner on the permit application.

f) **PERMIT** means a certificate of a size and style previously approved and issued by the Health Officer.

g) **BOARD** shall mean the Fort Wayne-Allen County Board of Public Health of Fort Wayne, Allen County, Indiana.

h) **DEPARTMENT** shall mean the Fort Wayne-Allen County Board of Public Health of Fort Wayne, Allen County, Indiana.

i) **IMMINENT HEALTH HAZARD** shall mean any condition, circumstance or situation, which in the sole opinion of the Health Officer, presents a serious and present health risk to a person or the public at large.

Sec. 27-23. Permit Requirements.

a) Nothing in this Article shall be construed as applying to any swimming or wading pool maintained for an individual for the sole use of his household or house guests or to a pool in a hospital or health facility approved by the State Board of Health, which is used for individual therapy only and is drained and filled prior to each individual use or to hot tubs or saunas.

b) It shall be unlawful for any person to operate a swimming pool in Fort Wayne, Indiana, who does not possess a valid permit from the Health Officer. Each permit shall be posted in a conspicuous place on the premises of such swimming pool. Only persons who comply with the applicable provisions of this Article shall be entitled to receive and retain such a permit. Such a permit shall be for a term of one (1) year, or less, and shall be renewed annually on or before the anniversary date established by the Health Officer. Any permit issued by the Health Officer shall contain the name and address of the Owner and such other data as the health Officer may deem necessary.

c) Swimming pools which operate only during the summer months of May, June, July, August or September shall pay the Department an annual permit fee of two hundred dollars (\$200.00), which shall be submitted with the initial or annual permit renewal application.

d) Swimming pools operating for periods longer than the summer months shall pay to the Department an annual permit fee of four hundred dollars (400.00) which shall be submitted with the initial or annual permit renewal application.

e) All permit fees shall be payable on or before the established anniversary date as provided herein, and all be subject to an additional late penalty charge of 10% of the permit fee if submitted after the permit anniversary date.

f) Tax supported units of government shall be exempt from the payment of the above prescribed fees, but shall pay a permit processing fee of fifty dollars (\$50.00) for each swimming pool.

g) In addition, a fee of fifty dollars (\$50.00) is to be paid for each additional swimming pool operated by a same Owner at the same address which is equipped with separate filtration and disinfection systems.

Sec. 27-24. Construction, Sanitation and Operation Requirements.

a) The requirements of Rule 410 IAC 6-2, as amended, "Swimming and Wading Pool Operation" of the Indiana State Board of Health are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such rule.

b) The requirements of Rule 410 IAC 6.2, as amended, are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such Rule.

c) The requirements of Rule 675 IAC 20, as amended, are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such Rule.

Sec. 27-25. Sewer Systems.

a) Treated swimming pool water or filter backwash water shall not be discharged to residential or small commercial building type sewage treatment systems. Filter wash water may not be discharged directly to a drain, ditch, stream or lake.

Sec. 27-26. Depth Markings.

a) Depth of water shall be plainly marked at or above the water surface on the vertical wall of the swimming pool, and on the edge of the deck or walk next to the swimming pool, at maximum and minimum depths.

b) Depth markers shall be plainly legible from the outer line of the pool. Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used which are visible to persons in the swimming pool.

c) Swimming pools having a diving board shall conform to the minimum dimensions as set forth in Figure 2-1 of 675 I.A.C. 20-2-15.

Sec. 27-27. Safety Requirement; Supervision Life Saving Equipment.

a) A spine board with ties and rigid cervical collar must be provided and accessible at all times.

b) Signs stating "No Diving" in clearly legible 3" high letters shall be displayed in non-diving and shallow portions (five (5) feet depth or less) of public and semi-public pools. Said display shall be in locations clearly visible to bathers entering the pool in non-diving areas. Diving shall not be allowed in pools or areas of pools that are not designed and constructed for that purpose. A "Pool Closed" sign in clearly legible letters must be posted when the pool is not open to bathers.

Sec. 27-28 Disinfection; Water Quality.

a) All gaseous chlorine equipment shall be operated and maintained in accordance with the standards and recommendations of the Chlorine Institute. Incorporated. pool equipment operating staff shall be trained in use of all such equipment including the self-contained breathing apparatus and shall be prepared to show evidence of that training. A plan of action for an emergency arising from the usage of gaseous chlorine shall be written, made known, posted and practiced.

b) When chlorine is used, a free chlorine residual of at least 1.0 mg/l shall be maintained throughout the pool whenever it is open or is used. If other halogens are used, residuals of equivalent disinfecting strength shall be maintained.

c) The Department shall collect and shall examine from each swimming pool subject to this Article at least one bacteriological sample per week whenever the swimming pool is open for use.

d) The swimming pool water shall be maintained in an alkaline condition as indicated by a pH of not less than 7.2 and not over 7.8 A pH testing kit accurate to the nearest 0.2 pH unit shall be provided at each swimming pool. The total alkalinity of the water shall be at least 80 parts per million (ppm).

e) Not more than 15 percent of the samples covering any considerable period of time shall either:

(1) contain more than 200 bacteria per milliliter, as

(2) show positive test (confirmed test) for coliform organisms in any of the five 10-milliliter portions of a sample, or more than 1.0 coliform organisms per 50 milliliters when the membrane filter test is used.

f) All samples shall be collected, dechlorinated, and examined for total plate count and coliform bacteria. Such test shall be performed in accordance with the procedures outlined in the latest edition of Standard Methods for the Examination of Water and Wastewater (APHA). Where samples are examined in laboratories other than those of the State Board of Health, copies of the report of examination shall be sent by the laboratory to the Division of Sanitary Engineering of the State Board of Health, using forms provided by that agency.

Sec. 27-29. Supervision.

a) There shall be in attendance at all times, one or more qualified persons who have successfully completed current life guarding, cardio pulmonary resuscitation (CPR), and standard first aid courses given by the American Red Cross, YMCA, YWCA, or equivalent organizations, except as otherwise provided in 410 I.A.C. 6-2-11, as amended.

b) Additional attendants shall be required so as to maintain a patron load of not more than seventy-five (75) persons per life guard when the pool is open for use.

Sec. 27-30. Powers for Inspection; Suspension; Revocation; Hearings and Orders.

a) The Owners or his agent shall, upon the request of the Health Officer, permit access to all areas of the swimming pool and shall permit inspection of, access to, and the copying of any and all records relating to the operation of the swimming pool.

b) Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Article, she shall give notice of such alleged violation to the Owner and/or agent, as hereinafter provided. Such notice:

(1) shall be in writing;

(2) shall include a statement of the reasons why it is being issued;

(3) shall contain an outline of remedial action, which, if taken, will effect compliance with the provisions of the Article;

(4) shall allow a reasonable time for the correction of the violations; and

(5) shall be served upon the Owner or his agent, provided that such notice shall be deemed to be properly served upon such Owner or agent, if a copy hereof is sent by certified mail to the address listed on the permit application, or if a copy there is posted in a conspicuous place in or about the facility affected by the notice, or if the Owner is served with such notice by any other method authorized under the laws of this state.

c) Any permit issued under the provisions of this Article may be temporarily suspended by the Health Officer for any of the following reasons:

(1) Failure to meet any of the standards required by this Article.

(2) Violation of any provision or provisions of this Article.

(3) Interference with the Health Officer or any of his authorized representatives in performance of their duties.

d) At the request of the owner, a hearing shall be afforded him within twenty-four (24) hours of the issuance of the written temporary suspension order.

e) Notwithstanding any other provisions of this Article, whenever the Health Officer finds insanitary or other conditions, involving the operation of any swimming pool operation which, in her opinion, constitutes an imminent health hazard, she may, without notice, or hearing, issue a written order to the Owner, citing the existence of such condition and specifying corrective action to be taken, and in the event that the suspected or known imminent health hazard is found to exist, require immediate discontinuance of operation.

(1) Such order shall be effective immediately.

(2) The Owner upon petitioning the Health Officer, shall be afforded a hearing as soon as possible.

(3) When the necessary corrective action has been taken and the Owner so requests, the Health Officer shall make a reinspection to determine whether the operations may be resumed.

f) Any permit issued hereunder may be revoked by the Health Officer for willful or continuous violation of any provision or provisions of this Article.

g) No such revocation shall be ordered by the Health Officer except upon hearing and at least 10 days written notice to the Owner of the time, place and nature of said hearing.

h) Such notice shall be served upon the Owner by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.

i) At such hearing, every person who is a party to such proceedings shall have the right to submit evidence and to cross-examine witnesses and to be represented by Counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitious evidence shall be excluded.

j) Upon the conclusion of such hearing, the Health Officer shall make a final order determining the issue, which order shall be final and conclusive upon all parties.

k) Any owner aggrieved by such an order shall be entitled to a review of the same before the Board by filing a written request therefore with the Secretary of the Board within 15 days after such order is issued. Upon receipt of such application, said Board shall hear the matter de novo in open hearing upon at least 10 days notice of that time, place and purpose thereof, which notice shall be issued by the Secretary of the Board to all persons affected.

l) Such notice shall be served upon the owner affected by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.

m) At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Officer; provided, only, that upon written demand by the Owner, the Board shall cause the proceedings before it, to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Board in the form of a transcript, a copy of which shall be available to any party.

n) The expense of such proceedings shall be charged to the party applying for the review. The Board may require the party applying for a review to deposit with such request an amount as determined by it to secure such expense.

o) The board shall make written findings of the facts in the case and shall enter its final order or determination of the matter in writing in the permanent records of the Board.

Sec. 27-31. Enforcement and Penalties.

a) It shall be the duty of the Health Officer to enforce the provisions of this Article. Any permit issued in conflict with the provisions of this Article shall be null and void. A violation of an Order issued by the Health Officer, Department or Board shall be considered to be a violation of this Article.

b) Whenever the Health Officer determines that the Owner of any swimming pool is in willful violation of any of the provisions of this Article, the Health Officer shall furnish evidence of said willful violation to the attorney for the Board, who shall prosecute all persons violating said provisions of this Article.

c) The operation of any swimming pool which is contrary to any of the provisions of this Article is hereby declared to be a common nuisance and an unlawful violation of this Article; and the Owner of said swimming pool shall be liable for maintaining a common nuisance.

d) Any Owner who violates any provision of this Article shall upon conviction be punished by a fine of not more than five hundred dollars (\$500.00) for each violation. Each day of the existence of any violation. Each day of the existence of any violation of this article shall be a separate offense.

e) The Health Officer may bring an action for an injunction in the Circuit Court or Superior Court of Allen County, Indiana, to restrain any Owner from violating the provisions of this Article or to cause such violation, including reasonable attorney's fees and cost.

f) Any Owner violating any of the provisions of this Article shall become liable to the City of Fort Wayne for any expense, loss, or damage occasioned by reason of such violation, including reasonable attorney's fees and cost.

g) The remedies provided for in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

Sec. 27-32. Enforcement Interpretation.

a) The Health Officer may initiate any procedures as she deems necessary for proper enforcement in order to carry out the purpose and intent of this Article.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

provision of this ordinance shall not constitute a violation of any other part of this ordinance.

SECTION 3. That this Ordinance be in full force and effect from and after its passage and any and all necessary approval by the mayor and all necessary publication.

Janet G. Bradbury
Councilmember

Read the third time in full and on motion by Bradbury, seconded by Henry, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Seven
Bradbury, Burns, Edmonds, Henry, Long, Redd, Schmidt
NAYS: None
ABSTAINED: None
ABSENT: Two
GiaQuinta, Talarico
DATED: 9-11-90

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-24-90 on the 11th day of September, 1990.

ATTEST:
Sandra E. Kennedy
City Clerk

Charles B. Redd
Presiding Officer
of the City of Fort Wayne, Indiana, on the 12th day of September, 1990, at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 14th day of September, 1990, at the hour of 5:45 o'clock P.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-24-90, passed by the Common Council on the 11th day of September, 1990, and that said Ordinance was duly signed and approved by the Mayor on the 14th day of September, 1990, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 14th day of September, 1990.

SANDRA E. KENNEDY, CITY CLERK

9-21-28

advertisement is set)

equivalent lines

excess of two)

FFIDAVIT

notary public in and for said county and state, the
ed _____ who, being duly sworn, says that he/
The Journal-Gazette newspaper of general
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d county aforesaid, and that the printed matter
which was duly published in said paper for
publication being as follows:

his 28th day of Sept. 19 90.

Notary Public Whitley County, IN
SHELLEY R. LARUE

September, 1990, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-90-07-37 (as amended) General Ordinance No. G-24-90 to-wit:

BILL NO. G-90-07-37 (AS AMENDED)
GENERAL ORDINANCE NO. G-24-90

AN ORDINANCE amending Article III, Chapter 27 of the City of Fort Wayne Code of Laws.

SECTION 1. That Article III, Chapter 27 of the City of Fort Wayne Code of Laws be amended as follows:

Sec. 27-22. Definitions.
Unless the context specifically indicates otherwise the meaning of terms used in this ordinance shall be as follows:
a) BATHER shall mean any person using the facility and adjoining area for the purpose of therapy, relaxation, recreation, or related activities.
b) HEALTH OFFICER shall mean the duly appointed qualified, and acting Health Commissioner of Fort Wayne/Allen County, Indiana, or her authorized representative.

c) PERSON shall mean any individual, partnership, firm, company, corporation, association, municipality, their division or government, or his or its legal representative or agent.
d) SWIMMING POOL shall mean any structure, basin, chamber, or tank containing a body of water for swimming, diving, therapeutic, or recreational bathing. "Swimming pool" shall also include auxiliary structures including dressing and locker rooms, toilets, shower, and other areas and enclosures that are intended for the use of persons using the pool, but shall not include pools and auxiliary structures and equipment at private single family residences intended only for the use of the Owner, his household, and house guests.

e) OWNER shall include, but not be limited to, any person, individual, corporation, firm, partnership, association, business organization, or any other group acting as a unit, as well as a trust or estate or the agent or legal representative thereof who shall hold title of the real estate upon which the pool is placed or who shall be legally responsible for the operations of the swimming pool or who shall be so designated as the owner on the permit application.

f) PERMIT means a certificate of a size and style previously approved and issued by the Health Officer.

g) BOARD shall mean the Fort Wayne-Alen County Board of Public Health of Fort Wayne, Indiana.

h) DEPARTMENT shall mean the Fort Wayne-Alen County Board of Public Health of Fort Wayne, Allen County, Indiana.

i) IMMINENT HEALTH HAZARD shall mean any event, circumstance or situation, which in the sole discretion of the Health Officer, presents a serious and present health risk to a person or the public at large.

Sec. 27-23. Permit Requirements.
a) Nothing in this Article shall be construed as applying to any swimming or wading pool maintained by an individual for the sole use of his household and house guests or to a pool in a hospital or health facility approved by the State Board of Health, which pool is used for individual therapy only and is drained and filled prior to each individual use or to hot tubs or saunas.
b) It shall be unlawful for any person to operate a swimming pool in Fort Wayne, Indiana, who does not possess a valid permit from the Health Officer. Each permit shall be posted in a conspicuous place on the premises of such swimming pool. Only persons who comply with the applicable provisions of this Article shall be entitled to receive and retain such a permit. Such a permit shall be for a term of one (1) year, or less, and shall be renewed annually on or before the anniversary date established by the Health Officer. Any permit issued by the Health Officer shall contain the name and address of the Owner and such other data as the health Officer may deem necessary.

c) Swimming pools which operate only during the summer months of May, June, July, August or September shall pay the Department an annual permit fee of two hundred dollars (\$200.00), which shall be submitted with the initial or annual permit renewal application.
d) Swimming pools operating for periods longer than the summer months shall pay to the Department an annual permit fee of four hundred dollars (400.00), which shall be submitted with the initial or annual permit renewal application.
e) All permit fees shall be payable on or before the established anniversary date as provided herein, and shall be subject to an additional late penalty charge of 10% of the permit fee if submitted after the permit anniversary date.

f) Tax supported units of government shall be exempt from the payment of the above prescribed fees, but shall pay a permit processing fee of fifty dollars (\$50.00) for each swimming pool.
g) In addition, a fee of fifty dollars (\$50.00) is to be paid for each additional swimming pool operated by the same Owner at the same address which is equipped with separate filtration and disinfection systems.

Sec. 27-24. Construction, Sanitation and Operation Requirements.
a) The requirements of Rule 410 IAC 6-2, as amended, "Swimming and Wading Pool Operation" of the Indiana State Board of Health are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such rule.

b) The requirements of Rule 410 IAC 6.2, as amended, are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such Rule.

c) The requirements of Rule 675 IAC 20, as amended, are hereby incorporated by reference as part of this Article, and all swimming pools shall be operated and maintained in accordance with the terms and provisions of such Rule.

Sec. 27-25. Sewer Systems.
a) Treated swimming pool water or filter backwash water shall not be discharged to residential or small commercial building type sewage treatment systems. Filter wash water may not be discharged directly to a drain, ditch, stream or lake.

Sec. 27-26. Depth Markings.
a) Depth of water shall be plainly marked at or above the water surface on the vertical wall of the swimming pool, and on the edge of the deck or walk next to the swimming pool, at maximum and minimum depths.
b) Depth markers shall be plainly legible from the outer line of the pool. Where depth markers cannot be placed on the vertical walls above the water level, other signs shall be used which are visible to persons in the swimming pool.

c) Swimming pools having a diving board shall conform to the minimum dimensions as set forth in Article 2-1 of 675 I.A.C. 20-2-15.

Sec. 27-27. Safety Requirement; Supervision Life Saving Equipment.
a) A spine board with ties and rigid cervical collar must be provided and accessible at all times.

b) Signs stating "No Diving" in clearly legible 3" high letters shall be displayed in non-diving and shallow portions (five (5) feet depth or less) of public and semi-public pools. Said display shall be in positions clearly visible to bathers entering the pool in non-diving areas. Diving shall not be allowed in pools or areas of pools that are not designed and constructed for that purpose. A "Pool Closed" sign in clearly legible letters must be posted when the pool is not open to the public.

Sec. 27-28. Disinfection; Water Quality.
a) All gaseous chlorine equipment shall be operated and maintained in accordance with the standards and recommendations of the Chlorine Institute. Incorporated pool equipment operating staff shall be trained in use of all such equipment including the chlorine-contained breathing apparatus and shall be required to show evidence of that training. A plan of action for an emergency arising from the usage of gaseous chlorine shall be written, made known, posted and practiced.

b) When chlorine is used, a free chlorine residual of at least 1.0 mg/ l shall be maintained throughout the pool whenever it is open or is used. If other halogens are used, residuals of equivalent disinfecting strength shall be maintained.

c) The Department shall collect and shall examine each swimming pool subject to this Article at least one bacteriological sample per week whenever the swimming pool is open for use.

d) The swimming pool water shall be maintained in an alkaline condition as indicated by a pH of not less than 7.2 and not over 7.8. A pH testing kit accurate to the nearest 0.2 pH unit shall be provided at each swimming pool. The total alkalinity of the water shall be at least 80 parts per million (ppm).
e) Not more than 15 percent of the samples covering any considerable period of time shall show:
(1) contain more than 200 bacteria per milliliter, as determined by the standard 35 Centigrade, agar plate count, or
(2) show positive test (confirmed test) for coliform organisms in any of the five 10-milliliter portions of a sample, or more than 1.0 coliform organisms per 50 milliliters when the membrane filter test is used.

f) All samples shall be collected, dechlorinated, and examined for total plate count and coliform bacteria. Each test shall be performed in accordance with the procedures outlined in the latest edition of Standard Methods for the Examination of Water and Wastewater (APHA). Where samples are examined in laboratories other than those of the State Board of Health, copies of the test results shall be sent by the

maintain a patron load of not more than seventy-five (75) persons per life guard when the pool is open for use.

Sec. 27-30. Powers for Inspection; Suspension; Revocation; Hearings and Orders.

a) The Owners or his agent shall, upon the request of the Health Officer, permit access to all areas of the swimming pool and shall permit inspection of, access to, and the copying of any and all records relating to the operation of the swimming pool.

b) Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Article, she shall give notice of such alleged violation to the Owner and/or agent, as hereinafter provided. Such notice:

(1) shall be in writing;
(2) shall include a statement of the reasons why it is being issued;
(3) shall contain an outline of remedial action, which, if taken, will effect compliance with the provisions of the Article;

(4) shall allow a reasonable time for the correction of the violations; and

(5) shall be served upon the Owner or his agent, provided that such notice shall be deemed to be properly served upon such Owner or agent, if a copy thereof is sent by certified mail to the address listed on the permit application, or if a copy there is posted in a conspicuous place in or about the facility affected by the notice, or if the Owner is served with such notice by any other method authorized under the laws of this state.

c) Any permit issued under the provisions of this Article may be temporarily suspended by the Health Officer for any of the following reasons:

(1) Failure to meet any of the standards required by this Article.

(2) Violation of any provision or provisions of this Article.

(3) Interference with the Health Officer or any of his authorized representatives in performance of their duties.

d) At the request of the owner, a hearing shall be afforded him within twenty-four (24) hours of the issuance of the written temporary suspension order.

e) Notwithstanding any other provisions of this Article, whenever the Health Officer finds insanitary or other conditions, involving the operation of any swimming pool operation which, in her opinion, constitutes an imminent health hazard, she may, without notice, or hearing, issue a written order to the Owner, citing the existence of such condition and specifying corrective action to be taken, and in the event that the suspected or known imminent health hazard is found to exist, require immediate discontinuance of operation.

(1) Such order shall be effective immediately.
(2) The Owner upon petitioning the Health Officer, shall be afforded a hearing as soon as possible.

(3) When the necessary corrective action has been taken and the Owner so requests, the Health Officer shall make a reinspection to determine whether the operations may be resumed.

f) Any permit issued hereunder may be revoked by the Health Officer for willful or continuous violation of any provision or provisions of this Article.

g) No such revocation shall be ordered by the Health Officer except upon hearing and at least 10 days written notice to the Owner of the time, place and nature of said hearing.

h) Such notice shall be served upon the Owner by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.

i) At such hearing, every person who is a party to such proceedings shall have the right to submit evidence and to cross-examine witnesses and to be represented by Counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitious evidence shall be excluded.

j) Upon the conclusion of such hearing, the Health Officer shall make a final order determining the issue, which order shall be final and conclusive upon all parties.

k) Any owner aggrieved by such an order shall be entitled to a review of the same before the Board by filing a written request therefore with the Secretary of the Board within 15 days after such order is issued. Upon receipt of such application, said Board shall hear the matter de novo in open hearing upon at least 10 days notice of that time, place and purpose thereof, which notice shall be issued by the Secretary of the Board to all persons affected.

l) Such notice shall be served upon the owner affected by leaving a copy at the address listed on the permit application or by mailing the notice by Certified Mail to such address.

m) At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Officer; provided, only, that upon written demand by the Owner, the Board shall cause the proceedings before it to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Board in the form of a transcript, a copy of which shall be available to any party.

n) The expense of such proceedings shall be charged to the party applying for the review. The Board may require the party applying for a review to deposit with such request an amount as determined by it to secure such expense.

o) The board shall make written findings of the facts in the case and shall enter its final order or determination of the matter in writing in the permanent records of the Board.

Sec. 27-31. Enforcement and Penalties.

a) It shall be the duty of the Health Officer to enforce the provisions of this Article. Any permit issued in conflict with the provisions of this Article shall be null and void. A violation of an Order issued by the Health Officer, Department or Board shall be considered to be a violation of this Article.

b) Whenever the Health Officer determines that the Owner of any swimming pool is in willful violation of any of the provisions of this Article, the Health Officer shall furnish evidence of said willful violation to the attorney for the Board, who shall prosecute all persons violating said provisions of this Article.

c) The operation of any swimming pool which is contrary to any of the provisions of this Article is hereby declared to be a common nuisance and an unlawful violation this Article; and the Owner of said swimming pool shall be liable for maintaining a common nuisance.

d) Any Owner who violates any provision of this Article shall upon conviction be punished by a fine of not more than five hundred dollars (\$500.00) for each violation. Each day of the existence of any violation.

e) The Health Officer may bring an action for an injunction in the Circuit Court or Superior Court of Allen County, Indiana, to restrain any Owner from violating the provisions of this Article or to cause such violation, including reasonable attorney's fees and cost.

f) Any Owner violating any of the provisions of this Article shall become liable to the City of Fort Wayne for any expense, loss, or damage occasioned by reason of such violation, including reasonable attorney's fees and cost.

g) The remedies provided for in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

Sec. 27-32. Enforcement Interpretation.

a) The Health Officer may initiate any procedures as she deems necessary for proper enforcement in order to carry out the purpose and intent of this Article.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance.

SECTION 3. That this Ordinance be in full force and effect from and after its passage and any and all necessary approval by the mayor and all necessary publication.

Janet G. Bradbury
Councilmember

Read the third time in full and on motion by Bradbury, seconded by Henry, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Seven
Bradbury, Burns, Edmonds, Henry, Long, Redd, Schmidt

NAYS: None
ABSTAINED: None
ABSENT: Two
Giacinta, Talarico
DATED: 9-11-90

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-24-90 on the 11th day of September, 1990.

ATTEST:
Sandra E. Kennedy
City Clerk

Charles B. Redd
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of September, 1990, at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 14th day of September, 1990, at the hour of 5:45 o'clock P.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-24-90, passed by the Common Council on the 11th day of September, 1990, and that said Ordinance was duly signed and approved by the Mayor on the 14th day of September, 1990, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 14th day of September, 1990.

SANDRA E. KENNEDY, CITY CLERK

9-21-28

Equivalent lines

\$ 214.34

(cess of two)

2.00

\$ 216.34

153,

that the amount
allowing all just credits, and that no part of the

Nicole Allred

1990 Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Nicole Allred who, being duly sworn, says that he/

he is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter

attached hereto is a true copy, which was duly published in said paper for wo time (s), the dates of publication being as follows:

9/21, 28/90

Nicole Allred

Subscribed and sworn to before me this 28th day of Sept., 19 90.

Notary Public, Whitley County, TN